DETAILED ACTION

Acknowledgements

1.   The examiner acknowledges independent claims 1, 11, 21, 22, 23, 27, 31, 33, 35, 44, 47, 52 and 58 have been amended in applicant's submission filed 28 July 2009.

Response to Arguments

2.   Applicant's arguments filed 28 July 2009 have been fully considered but they are not persuasive, and traverse as follows:

3.   Regarding the argument on page 27 of applicant's remarks, "*The Office Action appears to interpret making a first selection of a window of Thomas as selecting and displaying at least one of a plurality of different outcomes of a first round of the gaming device of independent claim 1. The Office Action also appears to interpret the windows remaining that are each associated with a winning value after the first selection of Thomas as the selection of a probability of providing the winning outcome of the second round, which is based exclusively on the number of non-selected outcomes of the first round of the gaming device of previously presented independent claim 1. Applicant submits that based on this interpretation, Thomas does disclose a gaming device that includes for each play of a bonus game, cause the processor to select one of a plurality of different probabilities of providing a winning outcome of a second round, wherein the probability of providing the winning outcome of the second round is greater than zero. In Thomas, the probability of providing a winning outcome of a second round is not greater than zero for each play of a bonus game. For example, if a 10 window selection game of Thomas includes 5 selections associated with winning values and 5 selections associated with end-bonus outcomes, the player has a 5/10 (or 50%) chance of obtaining a winning outcome for a first selection (i.e., interpreted as a first round of the gaming device of claim 1). If the player selects a winning outcome for the first selection, then the player has a 4/9 (or 44%) chance of obtaining a winning outcome for the second selection (i.e., interpreted as the second round of the gaming device of claim 1). That is, if the player picks a winning outcome with the player's first selection, then 4/9 (or 44%) of the selections remain as possible winning outcomes for the player's second selection. Alternatively, in this example, if the player selects an end-bonus outcome for the first selection of Thomas (i.e., interpreted as a first round of the gaming device of claim I), the selection game ends. That is, the player is not given a second selection and the player has a 0% chance of obtaining a winning outcome for the second selection. Thus, the probability of providing a winning outcome for the second selection of Thomas is not greater than zero for each play of a bonus game.*" The applicant refers to the amended limitation that the Thomas reference does not provide a probability of outcome greater than zero to each play of a bonus round; the examiner points that the key word is each play and that if the bonus game has terminated, each play before termination had a probability larger than zero of

outcome. So, as long as the bonus game is in play, every window for selection by the player offers a probability of wining outcome greater than zero, and after termination of the bonus game of course there are no more probabilities for wining. In this case when the bonus game offers a second or third round the probability is greater than zero.

4.   Regarding the argument on page 29 of applicant's remarks, "*Moreover, if the Office Action interprets Thomas such that a bonus resource outcome is available to a player for each play of the selection game, Applicant submits that such bonus resource outcomes are still not obtained independent of a base game outcome. In Thomas, the player must earn bonus resource outcomes from a base game. That is, if a player obtains a bonus game resource for use in the selection game of Thomas is dependent on outcomes from a base game. On the other hand, the gaming device of amended independent claim 1 includes, amongst other elements, for each play of a bonus game, cause the processor to operate with the display device and the input device to display an award based on at least one of the selected outcomes of the first round and any winning outcome of the second round, wherein the award is determined independent of any base game outcome.*" The examiner points that the key word in the claim language is "outcome", column 9 lines 10-30 show how the bonus payout is adjusted according to the number of coins played on the base game, but is not adjusted or multiplied or manipulated based on the actual symbols of the base game, only used to start the bonus round. There indeed once the bonus game has started the value or probability of outcome does not depend on any symbols presented on the base game.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6.   Claims 1-35, 44 and 47-58 are rejected under 35 U.S.C. 102(e) as being anticipated by Thomas et al. (US 6,190,255 B1).

7.   Regarding claims 1, 21 and 35; Thomas discloses a gaming device comprising an input device, a display device, a processor and a memory device which stores a plurality of instructions, which when executed by the processor, cause the processor to operate with the display device and the input device, for each play of the bonus game (fig. 14 and col. 2:7-19), to:

(a) select and display at least one of a plurality of different outcomes of first round, (col. 10:25-26 and col. 10-46-48);

(b) select one of said-a plurality of different probabilities of providing a winning outcome of a second round, wherein said probability of providing said winning outcome of said second round is: (i) greater than zero, (ii) selected based exclusively on the number of non-selected outcomes of said first round and (iii) selected regardless of which of any of the outcomes of said first round were selected, (col. 10:57-11:13 and col. 14:5-49);

(c) determine whether to provide a player the winning outcome of the second round, wherein said determination is based on the selected probability of providing said winning outcome of said second round, (col. 10:57-11:13); and

(d) display an award based on at least one of the selected outcomes of the first round and any (positive/winning) outcome of the second round, wherein said award is determined independent of any base game outcome, (col. 11:1-13).

8.   Regarding claims 2 and 12; Thomas discloses wherein when executed by the processor, said plurality of instructions cause said processor to provide the player an award based on the selected outcome of said first round and the winning outcome of said second round if said determination is to provide the player the winning outcome of said second round, (col. 11:1-13).

9.   **Regarding claims 3 and 13;** Thomas discloses wherein when executed by the processor, said plurality of instructions cause said processor to provide the player an award based on the selected outcome of the first round if said determination is not to provide the player the winning outcome of said second round, (col. 11:1-13).

10.   **Regarding claims 4 and 14;** Thomas discloses wherein when executed by the processor, said plurality of instructions cause the processor to enable the player to play the first round, (col. 9:4-13).

11.   **Regarding claims 5 and 15;** Thomas discloses wherein when executed by the processor, said plurality of instructions cause the processor to enable the player to play the second round, (col. 10:64-67).

12.   **Regarding claims 6 and 16;** Thomas discloses wherein when executed by the processor, said plurality of instructions cause the processor to enable the player to play the first round and the second round, (col. 10:46-67).

13.   **Regarding claims 7 and 17;** Thomas discloses which includes at least one subsequent round, at least one winning outcome of said subsequent round and a plurality of different probabilities of providing said winning outcome of said subsequent round, (col. 14:5-49).

14.   **Regarding claims 8 and 18;** Thomas discloses wherein when executed by the processor, said plurality of instructions cause the processor to select one of the probabilities of providing said winning outcome of said subsequent round based on the selected outcome of said first round and determine whether to provide the player the winning outcome of said subsequent round based on the selected probability of providing said winning outcome of said subsequent round, (col. 14:5-49).

15.   Regarding claims 9 and 19; Thomas discloses wherein when executed by the processor, said plurality of instructions cause the processor to select one of the probabilities of providing said winning outcome of said subsequent round based on the selected outcome of said second round and determine whether to provide the player the winning outcome of said subsequent round based on the selected probability of providing said winning outcome of said subsequent round, (col. 14:5-49).

16.   Regarding claims 10 and 20; Thomas discloses wherein when executed by the processor, said plurality of instructions cause the processor to select one of the probabilities of providing said winning outcome of said subsequent round based on the selected outcome of said first round and said second round and determine whether to provide the player the winning outcome of said subsequent round based on the selected probability of providing said winning outcome of said subsequent round, (col. 14:5-49).

17.   Regarding claims 11 and 22; Thomas discloses a gaming device comprising a primary wagering game operable upon a wager by a player, a first round, a plurality of different outcomes of said first round; a second round; a winning outcome of said second round, a plurality of different probabilities of providing said winning outcome of said second round; and a triggering event associated with said primary wagering game, wherein after the occurrence of said triggering event, for each play of the bonus game (abstract and col. 14:5-49); (a) one of said plurality of outcomes of said first round is selected and displayed, (col. 10:46-50); (b) one of said different probabilities of providing said winning outcome of said second round is: (i) greater than zero, (ii) selected based exclusively on the number of non-selected outcomes of said first round and (iii) selected regardless of which of any of the outcomes of said first round were selected, (col. 14:5-19); (c) a determination of whether to provide the player the winning outcome of the second round occurs, wherein said determination is based on the

selected probability of providing said winning outcome of said second round, (col. 10:46-67); and (d) display an award based on at least one of the selected outcomes of the first round and any (positive/winning) outcome of the second round, wherein said award is determined independent of any primary wagering game outcome, (col. 10:4-13), wherein the outcome award of the bonus game is only dependent of the coins played not on the outcome of the base game.

18.   Regarding claims 23, 27, 31, 33, 44, 47, 52 and 58; Thomas discloses a gaming device comprising an input device, a display device, a processor and a memory device which stores a plurality of instructions, which when executed by the processor, cause the processor to operate with the display device the input device, for each play of the bonus game (fig. 14 and col. 2:7-19), to: (a) indicate at least one of a range of different independently determined values of a first round to a player, (b) select one of a range of different probabilities of obtaining a modifier of a second round, (col. 5:57-62 and 14:53-58) wherein the greater the indicated value of said first round the lower the selected probability of obtaining said modifier of said second round, the probability of obtaining said modifier of the second round is greater than zero and the probability of obtaining said modifier of the second round is selected regardless of which of any of the determined values of said first round were indicated, (col. 14:5-49), since the number of good outcomes is less in comparison with the end-bonus symbol the good outcome rate is lowered; (c) determine whether to provide the player said modifier of said second round, wherein said determination is based on the selected probability of obtaining said modifier of said second round, (col. 14:5-49), (d) provide the player the indicated value of the first round if the determination is not to provide the player said modifier of said second round, (e) modify the indicated value of said first round by said modifier of the second round if the determination is to provide the player said modifier of said second round, and (f) display said modified value, wherein said modified value is determined independent of any base game outcome, (col. 11:1-13).

19.   Regarding claims 24, 28, 32 and 34; Thomas discloses wherein when executed by the processor, said plurality of instructions cause said processor to provide the player any modified value, (col. 7:29-31).

20.   Regarding claims 25 and 29; Thomas discloses wherein said first round includes a plurality of opportunities to obtain said values, wherein each of said opportunities is associated with a probability of obtaining one of said values, (col. 10:25-28).

21.   Regarding claims 26 and 30; Thomas discloses wherein when executed by the processor, said plurality of instructions cause said processor to provide the player at least one of said plurality of opportunities and to determine based on the associated probability for each provided opportunity whether to indicate one of said values, (col. 10:46-50).

22.   Regarding claims 48 and 54; Thomas discloses which includes a plurality of terminators, (col. 5:52-54).

23.   Regarding claims 49 and 55; Thomas discloses wherein when executed by the processor, said plurality of instructions cause the processor to provide the player one of said terminators in the first round if the player's picked selection is not associated with said selected value, (col. 14:5-49).

24.   Regarding claims 50 and 56; Thomas discloses wherein said terminating event occurs when the player is provided a designated number of terminators, (col. 14:5-49).

25.   Regarding claims 51 and 57; Thomas discloses wherein the higher the number of un-revealed values of said first round, the lower the probability of obtaining said modifier of said second round, (col. 14:5-49 and fig. 11), %-safe value decreases with each consecutive choice.

26.   Regarding claim 53; Thomas discloses wherein said terminating event occurs when the steps are repeated for a designated number of opportunities, (col. 13:52-60).

Claim Rejections - 35 USC § 103

27.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

28.   Claims 45-46 and 59-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas in view of Olsen (US 6,217,448 B1).

29.   Regarding the analogous art combination; Thomas discloses a bonus game for a gaming machine with multiple stages or rounds; and Olsen discloses a gaming machine bonus system containing various rounds and controlling the probabilities of success of each consecutive round. Both references teach gaming machines and bonus round features and controls.

30.   Regarding claims 45-46 and 59-60; Thomas discloses wherein the higher the number of non-provided values of said first round, the lower the probability of obtaining said modifier of said second round, (col. 14:5-49 and fig. 11) wherein the higher the number of successes the higher the probability of failure of obtaining the modifier. Thomas is silent to wherein the higher the number of non-provided values of said first round, the higher the probability of obtaining said modifier of said second round. Olsen discloses (claim 45), wherein the higher the number of non-provided values of said first round, the lower the probability of obtaining said modifier of said second round, (col. 7:30-36), where the bonus multiplier opportunities (probability) decreases with each round. And (claim 46) wherein the higher the number of non-provided values of said first round, the higher the probability of obtaining said modifier of said second round, (col.

7:30-36), where the bonus multiplier opportunities (probability) may also increase with each round in another embodiment.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Thomas by increasing the player's probabilities of winning with each round or by decreasing the probabilities as different choices for different embodiments of the invention giving players choices to play different game themes, and observe player behaviors or trends.

Examiner's Note

31.   Examiner has cited paragraphs and figures in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter D. Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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11/02/2009
/Peter D. Vo/
Supervisory Patent Examiner, Art Unit 3714